Boston University
Legislative Drafting Diploma, LD4 Group

CHILD LABOR BILL, EGYPT

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"Dear Mahmoud,

Thank you for this wonderful new version! I reviewed the bill and research report and both documents look excellent!! You and your group have done an excellent and thorough job and I do appreciate the hard work! It was also a pleasure working with you. I would love to hear updates as you progress with this. This bill has the potential to make a great difference for the children of Egypt !!

Again, thank you for being such a pleasure to work with! I look forward to hearing from you again soon! Please, let me know if there is anything else I can do to help!

Carolyn Martello, Esq.
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"Dear Mahmoud,

Congratulations on your work in the course. You've done a good job.

We look forward to continuing to work with you in the area of strengthening legislative drafting capacity and law-making institutions.

All the best,

Ann & Bob"
Directors,
Boston University Program on Legislative
Drafting for Democratic Social Change,
Boston, Massachusetts, USA,
Ann & Bob"

I. RESEARCH REPORT

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I. Introduction

The social problem which my group and I propose to draft a bill to solve is "Employment of children and young persons in Egypt". According to Section (1) of UN Convention on Child Rights 1990, a child means a person aged under 18.

The latest international reports indicate that an estimated 250 million children and young persons of the age group 5 – 17 years old, mostly in the developing countries, work under difficult and humiliating conditions[1]. Of those children, an estimated 41% of the age group 5-14 exist in Africa; the highest percentage in the world's continents[2].

This means that one of six children and young persons under the age of 17 works in the world. Three quarters of these children and young persons work in dangerous works[3]. According to ILO Director General, the problem of the working children and young persons is an international phenomenon. No nation or region in the world is immune from this problem[4].

Since its creation in 1919, the ILO has adopted 11 treaties and conventions on the issue of the age of the working children and young persons, besides, 8 conventions regulating night work and medical examination. According to the latest ILO convention of 1973, the minimum age of the children and young persons permitted to work (in case of the countries whose economy or educational system has not sufficiently developed) must be not less than the age of completing mandatory education phase or 14-15 years old. This minimum age can be reduced to 12-13 for simple

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1 UNICEF report 1997 on the children's situation in the world.

2 Adel Badr, The Working Children Problem at both Local and International Levels, a report published by The Egyptian for the Right of the Child, 21 March 2003, p.1.

3 Report by ILO published in *Al-Aalam Alyoum* newspaper, 9 February 2001.

4 Al-Ahrar newspaper, 4 January 2003.

works which cannot cause harm to the children's health, growth, or education.

In the Arab world, 10 million children dropped from school at the basic education phase and went to work[5].

In Egypt, a report of the American Embassy in Cairo estimated the number of the working children at 3 million[6]. According to a survey of the Egyptian labor market, 2.5% of the working children work in urban areas and 8.7% work in rural areas[7]. Other estimates put the number of the working children aged under 14 years at 361,000 and the children aged from 15 to 19 years at 1.5 million.

II. THE TARGETED GROUP

The targeted age group comprises children and young persons up to 18 years of age. For the purposes of this Bill, a child means a person of one day to 14 years of age (the school leaving age). A young person means a person of 14 – 18 years of age.

The reason why this group is targeted, in particular, is that according to the ILO convention on the minimum age of the working children adopted by Egypt the minimum age of the children permitted to work is 12 (or 14) years. This means that employment of children under the age of 12 is absolutely prohibited by international conventions. However, the problem of the working children above the age of 14 may have its roots under that age; meaning that the situation of the children under that age should be addressed to make the Bill work.

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5 Action paper by Rasha Abdelhaq from the Social Protection Department of the International Labor Office in Cairo. The paper was presented to the Arab regional conference for laying down a strategy for limiting the phenomenon of working children.
Alra'i newspaper, 20 October 2003.

6 Adel Badr, op cit, p. 2.

7 Ibid, p. 2.

Farming is the first occupation in which both male and female children and young persons are employed, especially, in the rural areas. In 1995, the percentage of young males of 12 - 14 years working in farming was 62.8% compared to 83.6% for females[8]. A significant percentage of children and young persons under the age of 12 works in farming but there are no available statistics about their actual numbers.

Small-scale industries are the biggest employer of children and young persons, particularly males, in the urban areas. A study conducted on a sample of 10 working children revealed that 5 of them (50%) work in small workshops[9].

Our objective from drafting this bill is both to protect children (under 12 years) from going to work to their detriment and to eliminate the harms caused to the children (12-14) and young persons (14-18) who, driven by economic, family, and other conditions, have to work. We are not concerned because children or young persons merely work but, rather, because they are mistreated and underpaid; work under difficult conditions; are deprived from continuing their education; suffer from health, social, and psychological problems; and above all are deprived from enjoying their childhood.

The methodology to be followed in addressing this problem is a 4-step process. First, the problem will be identified. The *whose and what behaviors*, which comprise that problem, will be explored. Secondly, explanations of the problem; i.e. the causes of the role occupants' problematic behaviors, will be given. Thirdly, solutions will be proposed. Fourthly, adequate monitoring and evaluation mechanisms will be laid down.

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8 Research on a sample of working children, 1995.

9 Prof. Nadra Wahdan and Nabila Ghuneim, The National Planning Institute, May 1996, p. 99.

III. THE HARM

1. Health harms

Children and young persons usually work under unhealthy and dangerous working conditions[10]. A case study conducted on 10 small-scale industrial enterprises revealed that the working child and young person does not receive any health care or medical supervision. 37.8% of the sample children said that when they become sick, their employer stops paying their wages. 24.2% said that they do not receive their wages when they are injured while working. 21% do not receive any kind of treatment when injured while performing their work[11].

When injured or falling ill, the children and young persons are treated at the cost of their families[12] and are even deprived of their wages[13].

As a result of dealing daily with dangerous machines, the children and young persons suffer from burns, wounds, etc. Most of the children and young persons work in workshops which are not equipped with good ventilation and are vulnerable to noise, high heat, repugnant odors, and lack of water. Some children and young persons work in mines and under ground[14].

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10 Report of the National Council for Services and Social Development, p. 42.

11 Ola Mostafa, a sample survey on "Working children in small-scale industries", the Social National Magazine issued by the National Center for Social and Criminal Research, vol. 34, 1st ed., January 1997, p. 13.

12 Dr. Fouad Bassiuni Metwalli, Motherhood and childhood, the Educational Library, 1998, p.80.

13 Ola Mostafa, research on "Working children in small-scale industries", the Social National Magazine issued by the National Center for Social and Criminal Research, vol. 34, 1st ed., January 1997, p. 17.

14 Al-Amal magazine, issue 440, p. 34.

Children and young persons usually are forced to work long hours every day with little, if any, periods of rest and for low wage[15].

Associated with older workers in small workshops, children and young persons very often imitate and acquire bad habits; they become smokers and even drug addicts[16].

2. Psychological harms

Working children and young persons suffer from tremendous psychological difficulties[17]. They are deprived of the family atmosphere at a time when they direly need this environment. They work for long hours daily away from their families[18].

They are usually humiliated, and even physically beaten, by their employers or senior workers. A sample survey found that 54.5% of the working children and young persons covered by the survey are beaten by their employers[19].

3. Educational harm

The working children and young persons are deprived of continuing their education, thus, joining the illiterate queue[20]. Most of the dropping-out children and young persons go to work[21]. The continued drop-out at the basic educational phase

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15 Report, National Council for Services and Social Development, pp. 42-43.

16 Dr. Fouad Bassiuni Metwalli, op cit., p.74.

17 Report of the National Council for Social Services and Development, 17th session, 1996 – 199, p. 43.

18 Ibid, p. 43.

19 Ola Mostafa, p. 13.

20 Dr. Fouad Bassiuni Metwalli, op cit., p.74.

21 Working Children in Egypt since 1984, a study published in "Egypt's children .. demographically, economically, and socially", p. 37.

(6-12 years) constitutes the main base of the working children and young persons[22].

4. Economic harm

For most employers, children and young persons are cheap labor; they work for long hours with a very small wage. A sample survey on "the Working Children Phenomenon in Small-scale Industrial Enterprises in Egypt" revealed that the working child and young person works for about 11 hours a day[23]. By hiring children and young persons, employers do not need to hire adult workers, thus, increasing the unemployment problem.

III. WHOSE BEHAVIOR IS BLAMED FOR THE HARM?

1. The family
The inability of the family's breadwinner to bear the cost of living is a main factor behind sending the children and young persons to work to improve the family's income. According to a report of the ILO, 69th session 1983, 50 million children under the age of 15 work to earn their living[24].

2. Shortcomings of the education system
Many children and young persons go to work after they fail in their education. Their failure, in most cases, is not blamed on them but partially on the education system and partially on their family conditions. Most of the working children go to work as a result of their failure in education[25].

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22 Dr. Fouad Bassiuni Metwalli, op cit, p.74.

23 Ola Mostafa, op cit, p. 13.

24 Report of the National Council for Services and Social Development, p. 42.

25 Ola Mostafa, op cit, p. 20.

3. Employers
   Most employers welcome children and young persons to work in their workshops because they will not have to pay high wage for adults[26].

4. The concerned authorities
   By failing to act to curb this phenomenon, the concerned authorities are also blamed for this problem. Studies indicate that the non-official sector, where the children and young persons are employed, does not comply with the regulations like the factories affiliated to the official sector. The absence of monitoring by the concerned authorities is blamed for this non-compliance[27].

5. The community at large
   By accepting to deal with the working children and young persons, the community also contributes to creating this problem.

IV. REASONS CONTRIBUTING TO THE PROBLEM

1. The increased economic needs and the inability of the family's breadwinner to cover these needs are the main cause of the problem[28]. According to the study referred to above, the average monthly income of the family of the working child and young person is about 194.72 pounds, or 30 US dollars[29]. The desire to help the family was a main determinant behind pushing the children and young persons to go to work[30]. That is why the working children young persons only exist in the

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26 Report of the National Council for Services and Social Development, p. 42.

27 Adel Badr, p.5.

28 Mr. Ahmed El-Amawi, Minister of the Labor Force and Emigration, Al-Ahram Al-Ektissadi, 1 July 1996.

29 Ola Mostafa, op cit, p. 16.

30 Ibid, p. 19.

poor families whether in the urban or rural communities[31]. An empirical study revealed that 7 out of 10 working children and young persons live in slums[32].

2. Failure in education is a major reason behind the working children problem. A sample survey found that 49.6% of the sample left the school because they failed in their education. Dropping out was high at the elementary educational phase[33].

3. The working children problem is also linked to the overpopulation problem. Solving one of these problems will automatically solve the other one. The reason behind this linkage is that the low class of the society gets their main income from sending their children to work. Therefore, the child and young person is the source of income. That is why these families are keen to have more babies to get more income[34].

4. Urban migration adds more population to the cities with many of the migrating families unable to find job opportunities. The children and young persons of these families have to work to contribute to the family's income[35].

5. The inability of the government to bear the cost of educating all children and young persons. According to a case study, 49.6% of the study sample left school because of their failure in study. The drop-out was high at the elementary educational phase[36].

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31 Dr. Fouad Bassiuni Metwalli, op cit, p.74.

32 Prof. Nadra Wahdan and Ms. Nabila Ghuneim, the National Planning Institute, May 1996, p. 72.

33 Ola Mostafa, op cit, p. 20.

34 Dr. Saad Bolbol, Al-Ahram Almessaei, 11 February 2004.

35 Dr. Fouad Bassiuni Metwalli, op cit, p.79.

36 Ola Mostafa, p. 20.

6. Loopholes in the Personal Status Act addressing the family disputes. A great part of the children and young persons who go to work live in disintegrated families[37].

V. EXPLANATIONS OF THE CAUSES OF THE PROBLEMATIC BEHAVIORS

1. With respect of employers

By employing children and young persons, employers serve their own interests. Compared to the adults, the children and young persons receive low wages. They work long periods. They can be ordered to do anything. They are easily controlled.

Providing a safe and healthy workplace needs money. For example, equipping a workshop for car painting will need ventilation system, masks, working coats and, more importantly, a wide area to accommodate cars. Most, if not all, workshops do not have these facilities.

Employers also pay low wages to the children and young persons. The reason for this is that a child or a young person seeking for a job is often not qualified for doing any job. He is employed first as an apprentice. Therefore, he cannot demand high wage. Being a child or, even, a young person, he cannot make good bargain. There is also the belief that when a child joins an undertaking, he will learn a trade that will benefit him in his career. Given the supply-demand market forces, the supply of children and young persons is high compared to the demand on them.

The environment surrounding the small-scale undertakings makes conforming behavior impossible. Most workplaces where children and young persons are employed are located in residential areas and are not originally intended for such activities (environment).

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37 Working Children in Egypt since 1984, a study published in "Egypt's children .. demographically, economically, and socially", p. 36.

2. With respect of the family

The children and young persons in the families headed by uneducated parents who are often tradesmen or craftsmen are more likely to go to work. The parents' ideology accounts for the problem. Two reasons can be blamed for this. First, many un-educated people think that it would be better if their children and young persons learn a trade or a craft in their childhood rather than pursue their education and after they complete their education they do not find jobs. Secondly, a tradesman or a craftsman would prefer that his child inherit his trade or craft rather than send him to school.

The growing birth rates, especially in the rural areas, leads to the increase of the family members. As a result, the children and young persons are used as a working force either by their families or by the others.

The unemployment of the family's head also accounts for the problem of the working children and young persons. The family's head is neither able (capacity) nor has the means (opportunity) to cover the cost of educating his children and young persons. The increased rate of unemployment turns some of the family breadwinners into unemployed with the result that their children and young persons go to work both to earn their own living and to contribute to the family's income.

The absence of the family's breadwinner (usually the husband) in case of broken families also pushes children and young persons to work.

The majority of families in the rural areas employ their children and young persons in their own farms. For the parents, the children and young persons do not receive wage. They are happy to see their children and young persons with them.

3. With respect of educational system

A big percentage of the working children and young persons are deprived of their education. In 1995, the percentage of illiterate[38] children of the age group 12 - 14 years was 65.7% in urban areas compared to 74.9% in rural areas[39].

The percentage of drop-outs from the basic educational phase (6-12 years of age) in the year 2000/2001 was 1.11% (0.61% females and 87.0% males). The percentage of drop-outs at the preparatory educational phase (12-15 years of age) in the same year was 3.02% (3.62% males and 2.34% females)[40].

Although education in Egypt is officially free of charge, it is very expensive! Hardly can a child or a young person succeed without having private lessons. The poor children and young persons cannot afford to pay the private tutorial cost. They fail. They go to work.

4. With respect of the implementing agency

There is no effective control practiced by the implementing agency to curb the problem of the working children. The fact that the problem continues indicates that the efforts of the implementing agency are ineffective.

VI. CURRENT CHILD LABOR LAW IN EGYPT

The working children problem in Egypt is addressed in several laws. These include the Constitution, the Employment Act 12/203, and the Child Act 12/1996. The issue is also covered in detail by the executive regulations of the above-said Acts and several ministerial

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38 Do not know to read or write.

39 Research on a sample of working children, 1995.

40 Working Children in Egypt since 1984, a study published in "Egypt's children .. demographically, economically, and socially", p. 29.

decisions. The most significant relevant legislation is discussed below.

The Constitution:

According to Section (10) of the Egyptian constitution "the State shall ensure the protection of mothers and children and shall care for the youngster and youth and provide them with the conditions suitable for developing their traits."

Employment Act 12/2003:

Chapter (3) of the Employment Act 12/2003 (Sections 98 to and through 103) is the main basis of the Egyptian legislation on the working children. According to Section (98) "For the purposes of this Act, a child is a person aged 14, or who has completed the basic education age, but has not completely reached the age of 18." This means that the Act only focuses on the children aged 14 to less than 18.

An employer who hires a child under 16 shall grant the child a card with the child's photo fixed on it indicating that the employer hires the child. The card must be signed by the local competent labor office (the second paragraph of Section 98).

Under Section (99) "(C)hildren, males or females, may not be employed before they complete the basic education age or 14 years' old, whichever is bigger. However, they may be trained when they attain the age of 12."

The competent Minister determines by decision the system of employing children and the circumstances, terms, and conditions under which they are employed as well as the works, trades, and industries where they may not be employed depending on their different age phases (Section 100).

Section (101) prescribes the working hours and rest periods of the children. "A child may not be employed for more than 6 hours a day. There must be a break period or periods for meals and rest of no less than a total of one hour. The break period(s) must be

determined so that a child does not work for more than four continuous hours. A child may not be employed for additional working hours or in the weekly days of rest and official holidays. In all cases, a child may not be employed between 7 p.m. to 7 a.m."

According to Section (102) "An employer hiring one or more children shall:

1. Display in a conspicuous place in the work place a copy of the provisions contained in this Chapter.
2. Make out a statement of the working hours and periods of rest approved by the competent administrative authority.
3. Report to the competent administrative authority the names of the children hired by the employer, the works assigned to them, and the names of the persons assigned to supervise their works."

Section (103) provides that the provisions of Chapter (3) referred to above do not apply to the children working in mere farming activities.

According to Section (140), an employer may not employ a worker in a trade except with a work permit from the competent authority. An employer who violates this rule is punishable by a fine of EGP 100 – 200. The fine is multiplied according to the number of workers involved (Section 249).

Section (227) entrusts the competent minister to create committees to study the work conditions and the causes of work accidents and occupational diseases and authorizes these committees to lay down the precautions to prevent the occurrence of these accidents and diseases. It also binds industrial undertakings with 15 workers and non-industrial undertakings with 50 workers and more to report biannually work diseases and injuries.

According to section (231), there is to be formed by decision of the respective governor a Consultative Committee for Safety and Occupational Health and Securing the Work Environment. Ministerial Decision 152/2003 defines the authorities of these committees. The committees are entrusted to plan the general policy of the

governorate in the field of occupational safety and health and securing the work environment; coordinate among the authorities concerned with safety and occupational health; and discuss the problems and obstacles against application of the rules of safety and occupational health requirements.

Sections (232) grants the Labor Force Ministry's inspectors the status of law enforcement officers. The inspectors are entitled to inspect the workplace in respect of the safety and health requirements and work environment as contained in the work licenses.

Ministerial Decision 118/2003:

Section (1) defines the works, trades, and industries where children below 18 years may not be employed.

Section (2) defines the works, trades, and industries where children below 16 years may not be employed.

Under Section (3) "An employer who hires children shall at the employer's cost submit them for preliminary medical examination before they are employed to ensure their health fitness for the type of work that will be assigned to them.

An employer hiring a child shall also submit the child for periodical medical examination on an annual basis at least and at the end of the child's service to make sure that the child does not suffer from occupational or work diseases and to keep the child's health fitness continuously. In all cases, the results of the medical examination must be established in the child's health card."

Section (4) binds employers to "provide the necessary treatment of work injuries and occupational diseases to the child the employer hires in accordance with the provisions of health insurance."

According to Section (5) "(T)here must be made available in the establishment where a child is employed first aid and health

requirements stipulated in law, particularly, ventilation, lighting, pure water, toilet, and personal hygienic tools."

Section (6) provides that "(A)n employer shall inform the child the employer hires of the threats of the trade and the importance that the child abides by the protection methods determined for the child's trade. An employer shall provide for the child the personal protection tools suitable for the nature of the child's work and age and shall train the child in how to use these tools. An employer shall make sure that the child uses these tools and complies with the instructions determined to protect the child's health against work incidents and shall not permit having meals in work places."

Under Section (7) "(A)n employer shall when hiring one or more children make out one by one a statement of the names, ages, and date of employment of children and shall display such statement in a conspicuous place in the establishment."

An employer who hires one or more children shall provide to each child a balanced health meal in accordance with the attached schedule (Section 8).

Child Act 12/1996:

According to Section (54), an employer may not prevent or deprive a child from receiving the basic education otherwise the employer is sentenced to a maximum of one month in jail or a fine of no less than 200 pounds and no more than 500 pounds.

Sections 64 – 69 (Part V, Chapter 1) address the working child issue. Section (64) prohibits the employment of children under 14 years and their training before they attain the age of 12.

But, children aged 12 – 14 may be permitted by decision of the competent governor with the Minister of Education's approval to be employed in seasonal works which are not likely to be harmful to their health, development, or attendance at school.

Sections from 65 to and including 67 repeat provisions in the Employment Act 12/2003 and the Ministerial Decision 118/2003

referred to above. According to Section (69), an employer shall hand over to the child or to the child's parent the child's wage, remuneration, and other entitlements.

VII. SHORTCOMINGS OF THE EXISTING LAW

1. Different definitions are given to the child in the Employment Act 12/2003 and the Child Act 12/1996. According to the first paragraph of Section (98) of Egypt's Employment Act 12/2003, a child is a person aged 14, or who has completed the basic education age, but has not completely reached the age of 18. The repealed Employment Act 137/1981, which was substituted by Act 12/2003, used the term "juvenile" instead of the word "child" to refer to the children of the age group 14-18. Later, the term "juvenile" was substituted in the new Act 12/2003 by the term "child". According to Section (2) of the Child Act 12/1996, however, a person who has not completely attained the age of 18 is deemed a child. This means that the Employment Act 12/2003 applies to children from 14 to less than 18 while the Child Act 12/1996 applies to all children less than 18.

2. The existing law focuses mainly on the young persons aged 14-18 while it ignores the children under the age of 14. Research, however, revealed that the problem of the working children and young persons also exists under the age of 14[41]. A sample survey conducted by the Central Agency for Public Mobilization and Statistics in 1988 estimated the number of the working children of the age group 6-14 at 12% of the total number of the children of that age group and 7.6% of the total labor force in Egypt[42]. A survey of the labor market conducted in 1998 put the percentage of the working children of the age group of 6-14 at 36.4%. Of those, 39.4% only receive their education while working[43].

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41 A study by Hoda Almirghani, reporter of Labor Committee of the Egyptian Industries Federation, Al-Arabi newspaper, 18 January 99.

42 Adel Badr, p. 1.

43 Ibid, p. 2.

More important, the roots of the problem of the working children and young persons can be traced back to the conditions under which they live under the age of 14. For example, there is a direct linkage between drop-out from school at the elementary educational phase (6-12) and the working children problem. As cited above, most of the dropping-out children go to work[44]. A study conducted on a sample of 10 working children revealed that half of them are of the age group 8-10 and the other half are of the age group 10 – 13[45]. Therefore, for the Bill to succeed it must address the roots of the problem and find out solutions to their causes.

3. The existing law absolutely prohibits hiring children under the age of 12 but fails to prescribe solutions to their problem.

4. According to Act 12/2003, children of the age group 12-14 are permitted only to receive training but are not permitted to be employed in any work. According to the Child Act 12/1996, however, the competent governor may determine by decision with the approval of the Minister of Education, to permit those children to work in seasonal works which are not likely to be harmful to their health, development, or attendance at school.

   If hiring the children aged 12-14 in seasonal works is not likely to be harmful to their health, development, or attendance at school, why then should that hiring be hinged upon a decision by the competent governor and the approval of the Minister of Education? This is unnecessary restriction.

5. No mention is made in the existing law of the children aged under 14 who may be employed in a family-owned business on an occasional basis or in entertainment performances. In

44 Working Children in Egypt since 1984, a study published in "Egypt's children .. demographically, economically, and socially", p. 37.

45 Prof. Nadra Wahdan and Nabila Ghuneim, op cit, p. 73.

reality, many children work for their parents and appear in TV, cinema, and theatre performances.

6. The existing law imposes on employers insignificant, unnecessary, or unrealistic requirements. For example, the second paragraph of Act 12/2003 requires that the employer who hires a child under 16 must grant the child a card with the child's photo fixed on it indicating that the employer hires the child and that the card must be signed by the local competent labor office. As said above, most children and young persons are employed in farming and small enterprises. In reality, this requirement is hardly met. The same is also true of sections from (5) to and through (8) of the Ministerial Decision 118/2003 and section (69) of the Child Act 12/1996 referred to above.

7. According to Section (103), the Employment Act 12/2003 does not apply to the children and young persons working in farming. A study conducted by "*Al-Ard* Organization for Human Rights" magazine on children labor in Egypt's countryside revealed that the number of the working children and young persons is on continued increase despite the enactment of the previous Employment Act 137/1980. According to that study, most of those children are of young ages[46].

8. The Employment Act 12/2003 requires that industrial undertakings with 15 workers and non-industrial undertakings with more than 50 workers should report biannually work diseases and injuries. This means that industrial undertakings with less than 50 workers and non-industrial undertakings with less than 15 workers are not addressed by these requirements. Significantly, the majority of employers of children and young persons are **small-scale** industrial and non-industrial undertakings[47]; meaning that they are not addressed by these controls.

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46 Alwafd daily, 6 June 2000.

47 Prof. Nadra Wahdan and Nabila Ghuneim, op cit, p. 99.

VIII. COMPARATIVE LAW

The problem of the working children and young persons is explored in three countries; the UK, the Philippines, and India. Like Egypt, both the Philippines and India belong to the Third World. Both suffer from the same problem and have enacted legislation to cope up with the problem. On the other hand, the UK belongs to the advanced world. This variety is intended.

Due the limited time for drafting this Bill, it is not possible to conduct an in-depth research about the similarities and dissimilarities between these countries and Egypt in respect of the subject of this research. However, the research team is not planning at all to copy the comparative law. The comparative law will definitely help in identifying the relevant aspects of the problem and how it can be handle. As said above, most countries of the world have joined the international conventions on the employing of children and young persons. Therefore, they handle, more or less, similar aspects of the problem.

The comparative law is intended to be used only as a guide but not to be copied.

1) THE UNITED KINGDOM

In the UK, control of children's and young persons' employment is exercised under a combination of primary legislation (i.e. the Children and Young Persons Act 1933 and Education Act 1996) and local authority byelaws. Other acts also address some aspects of the problem.

The **Children and Young Persons Act 1933**, together with the 1920 Act, forms the basis of the current regulatory system of child employment. It imposes general restrictions on the employment of children and young persons and enables a local authority to make bye-laws further regulating the employment of children and young persons. The regulations apply to all children of compulsory school age (i.e. up to age 16), but draw a distinction between younger (13 & 14 year old) and older (15 & 16 year old) children and young

persons. Children are not allowed to work prior to the age of 13, except in certain theatrical or other performances, or to work on an occasional basis for their parents in light agricultural or horticultural work.

All children and young persons who work must first obtain an employment permit (signed by school and a medical officer) which should ensure that the job a child wishes to do will not have a detrimental effect on their development (Part 2, §18-30). Employers have a legal duty to inform their LEA that they have employed a school age child (although it is not clear whether this duty also extends to parents as employers of their own children and young persons). (Part 2, §18-30).

Children and young persons may work for a maximum of 2 hours on schooldays and 2 hours on Sundays, 5 hours (for 13 & 14 year-olds) or 8 hours (for 15 & 16 year-olds) on Saturdays and a maximum of 12 hours each week. During school holidays children and young persons may work for up to 5 hours per day (13 & 14) or 8 hours (15 & 16 year-olds) on weekdays subject to a maximum weekly of 25 hours or 35 hours respectively. Children and young persons may not work for more than an hour before school, during school hours, before 7am or after 7pm, or for more than 4 hours without a break of more than one hour in any industrial setting (e.g. Factory of building site), or in any occupations prohibited by local bye-laws or other legislation (e.g. pubs, betting shops, or in any work that may be harmful to their health, well being or education).

A range of tasks are prohibited including, working in factories, garages, warehouses, working from moving vehicles, ice-cream making, and generally performing tasks which are deemed to hinder the child's educational and social development. Those allowed to work (13-15 year olds) are prohibited from working between 7pm and 7am. On school days and Sundays they can work for no more than 2 hours, but on Saturdays and school holidays this is increased to 5 hours (for 13/14 year-olds) and 8 hours (for 15 year-olds), up to a weekly maximum of 25 or 34 hours respectively.

Section 18 of Act 1933 sets out the basic restrictions on the employment of children and young persons and empowers local

authorities to make byelaws containing further conditions. Such byelaws may distinguish between different localities, trades, occupations and circumstances and may contain provisions authorizing certain types of employment.

A model byelaw contains:

- A list of permitted jobs for 13 year olds.
- A list of prohibited jobs for all children and young persons.
- Permission for children and young persons to work before school hours.
- Permission for children and young persons to work from age 10 for their parents in light agriculture and horticulture.
- The procedure for obtaining an employment permit.
- Permission for children and young persons to work in street trading.

Under **Education Act 1996**, section 559,

(1) If it appears to a local education authority that a child who is a registered pupil at a county, voluntary or special school is being employed in such a manner as to be prejudicial to his health, or otherwise to render him unfit to obtain the full benefit of the education provided for him, the authority may serve a notice in writing on the employer-

(a) prohibiting him from employing the child, or
(b) imposing such restrictions upon his employment of the child as appear to them to be expedient in the interests of the child.

(2) A local education authority may serve a notice in writing on the parent or employer of a child who is a registered pupil at a county, voluntary or special school requiring the parent or employer to provide the authority, within such period as may be specified in the notice, with such information as appears to the authority to be necessary for the purpose of enabling them to ascertain whether the child is being employed in such a manner as to render him unfit to obtain the full benefit of the education provided for him.

(3) A person who-
(a) employs a child in contravention of any prohibition or restriction imposed under subsection (1), or
(b) fails to comply with the requirements of a notice served under subsection (2),
shall be guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to any or both of the following-

(a) to a fine not exceeding level 1 on the standard scale.
(b) to imprisonment for a term not exceeding one month.

2) THE PHILLIPINES:

REPUBLIC ACT, NO. 7658, section 12, prohibits the employment of children below fifteen (15) years of age except in certain cases. These are as follows:

(1) When a child works directly under the sole responsibility of his parents or legal guardian and where only members of the employer's family are employed. However, two conditions must be fulfilled:

1. a child's employment must neither endanger his life, safety, health and morals, nor impairs his normal development.
2. The parent or legal guardian must provide the child with the prescribed primary and/or secondary education.

(2) Where a child's employment or participation in public entertainment or information through cinema, theater, radio or television is essential. Again, certain conditions should be met:

First; the employment contract must be concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment.

Second; the following requirements in all instances must be strictly complied with:

(a) The employer shall ensure the protection, health, safety, morals and normal development of the child;
(b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and
(c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.

In the above exceptional cases where any such child may be employed, the employer must first secure, before engaging the child, a work permit from the Department of Labor and Employment which must ensure observance of the above requirements.

The Department of Labor and Employment is entrusted to promulgate the rules and regulations necessary for the effective implementation of this Section.

INDIA:

Child Labor Act 1986, bans the employment of children and young persons, below 14 years of age in specified occupations and processes which are considered unsafe and harmful to child workers and regulates the conditions of work of children and young persons in employments where they are not prohibited from working.

It also lays down penalties for employment of children and young persons in violation of the provisions of this Act, and other Acts which forbid the employment of children and young persons.

The Act extends to the whole of India. The Child Labor Act of 1986 applies to all establishments and workshops wherein any industrial process is carried on (excluding one covered under section 67 of the Factories Act, 1948).

An "establishment" includes a shop, commercial establishment, workshop, farm, residential hotel, and restaurant, eating house, theatre or other place of public amusement or entertainment.

Under the Act, 'Child' means a person who has not completed his fourteenth year of age. Any such person engaged for wages, whether in cash or kind, is a child worker.

IX. PROPOSALS FOR SOLUTION

- Educate the families about the harms caused by sending their children and young persons to work at an early age of their life.

- Prohibit employment of children under the age of 12 years in any kind of work except in family-owned undertakings and entertainment performances on condition that their employment should not be harmful to their health, development, or attendance at school.

- Children aged 12-14 may be permitted to work only in "light works" subject to the following conditions:
  - There must be obtained approval of their parents.
  - Their employment should not be harmful to their safety, health or otherwise unsuitable for them.
  - Their employment should not be harmful to their attendance at school.
  - Their work should be a part of an approved work experience or education program.

- Types of work prohibited for the age groups 14-16 and 16-18 must be determined in light of the extent of their harms. This can be left to the Executive Regulation of the law.

- The working hours and working conditions for children and young persons must be regulated.

- A mechanism should be created to examine and address the cases of the students who drop out of school.

- A Child Education Unit should be created within the Ministry of Education whose job is to support the children and young persons who are unable to pursue their education, arrange for special tutorials for them, and conduct studies and research to identify the roots of the drop-out problem and the areas where that problem needs more attention. A percentage of the fines imposed against violators of this Bill will be used to fund the activities of the CEU.

- The Training and Qualification Fund, created by Act 12/2003 (Section 133), should assume responsibility for the drop-outs and qualify them for suitable occupations.

- Duties must be imposed on employers who employ children and young persons. These include the following:

  - Duty to employ children and young persons only with work permits from the competent local authority. The work permits must be signed by a school officer and a medical officer.
  - Duty to notify the competent local authority when they hire a child or a young person.
  - Duty to keep registers.
  - Duty to display the working hours at the work place.

- Incentives can be offered to the employers who comply with the law in respect of the employment of the children and young persons aged 12-18.

- Enhance control and follow-up by trade unions and civil society organizations on employers to ensure that they comply with the law.

- Impose penalties and restrictions against those who violate the Bill.

- There must be effective methods for evaluation and follow-up of the Bill's provisions.

X. CONCLUSION

The problem of hiring the children and young persons is alarming not only in Egypt but in the entire world. The fact that the ILO and many international organizations have taken responsibility for addressing this problem shows that it has gained an international weight.

The problem, however, is not simple. It needs the cooperation of different sectors of the community. It has many dimensions that have to be addressed. It concerns more than one ministry or official body. Indeed, it concerns the entire community.

Although the existing law addresses the problem, the problem still continues to exist. When a patient keeps on taking a medication prescribed by a doctor and the patient does not recover, either the medication is ineffective or the doctor has not correctly diagnosed the problem. In case of the law, it means that either the law has to be changed, amended, or supplemented or that the problem has to be re-examined from a different perspective.

Indeed, the existing law has many positive aspects. But, it also has its weaknesses. In this research, the problem has been examined from the perspective of "the legislative theory". It is only by adopting the legislative theory's steps discussed above that the law can be effective.

II. DRAFT BILL

CHILD LABOR DRAFT BILL, EGYPT

I. Amendment, commencement, extent, and interpretation

1. This Bill amends sections (98) to and inclusive of (104) of the Employment Act 2003.
2. This Bill comes into force the day after its publication in the Official Gazette.
3. This Bill applies to children and young persons.
4. For the purposes of this Bill, the following words and phrases have the meanings assigned to them respectively:

• "Child"	means a person who is under 14 years of age.
• "Young person"	means a person between 14 and 18 years of age.
• "Employer"	means a person, including parents, for whom a child or a young person works. The focus of the bill will be on PRIVATE employers, as the government and public sectors are not involved in this problem. There is also excluded from the scope of this Bill forced labor; i.e. children or young persons hired against their will.
• "Employment"	includes assistance in a trade or an occupation which is carried on for profit, whether or not payment is received for that assistance.
• "Establishment"	includes a shop, commercial or industrial undertaking, workshop, farm, hotel, restaurant, and other private or public projects.
• "Light work"	means a work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which tasks are performed- a. is not likely to be harmful to the safety,

health, or development of children and young persons[1]; and

b. is not harmful to their attendance at school.

- "parent" includes a person who has for the time being parental responsibility for a child or a young person.

II. Prohibited and permitted employment

5. An employer may not employ a child or a young person in work likely to prove harmful to the child or young person's safety, health, or development or to interfere with the child or young person's attendance at school[2].

6. An employer may not employ a child under the age of 14 except[3]-

a. in entertainment performances for theatre, cinema, television, or other performances which constitute light work[4];

b. on an occasional basis[5] in a parent-owned establishment[6];or

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1 Examples of works which are likely to be harmful to the child's safety, health, and development are working with dangerous machines, places like mines, means of transportation, furnaces, factories of chemicals, etc.

2 This general rule is not spelled out in the existing law.

3 This exception is not made in the existing law.

4 A child is not likely to suffer from performing in a theatrical or TV show. On the contrary, the child will be happy and enjoy that kind of work.

5 "Occasional" here means temporary and not on a regular basis. For example, some provinces depend on cotton growing. In the season of cotton harvesting, intensive labor is needed. Children are usually employed in harvesting. "Occasional" here also means in such way that is not likely to affect the child's schooling. No work permits are required for those children, as they work only for their parents. There is no need to monitor the number of hours the child works for two reasons; first, as above said, no harm is likely to be caused to the child as a result of being with his family. Secondly, the nature of work may require more hours than usual and may differ from one work to another.

6 A child is not likely to suffer from any harm when working to a family-owned business. On the contrary, being with his parents, the child will be happy.

c. in case of a child aged 12-14, only as an apprentice working for an agreed wage[7].

7. Subject to the conditions and requirements set out under the provisions of this Bill, young persons may be employed only in light work.

8. The Minister of Labor Force issues by decision the Executive Regulation defining the types of occupations in which young persons may be employed. In defining the types of these occupations, the Executive Regulation must take into account the type of work suitable to the age group 14-16 and the age group 16-18.

III. Working hours

9. An employer may engage in work a child or a young person only between 7 am and 7 pm[8]. An employer may not engage in work a child for more than 4 hours a day and a young person for more than 6 hours a day[9].

10. An employer must give a child a 20-minute rest break and a young person a 30-minute rest break in between the daily working hours[10]. In all cases, an employer shall not engage in work a child

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7 "Apprentice for wage" refers to jobs with specific types of oversight and training opportunities. According to Article (141) of the existing Act 12/2003, "(A) person who joins an employer to learn a trade or a craft is deemed an apprentice." Article (142) requires that an employer must pay gradual wage to an apprentice so that the apprentice's wage at the end of his apprenticeship must be no less than the associated minimum wage.

8 Limiting children to working between 7am and 7pm is an international obligation, which all countries signatory on the related international conventions must honor. Egypt is a signatory on these conventions.

9 In the existing law, no differentiation is made between the working hours for children (i.e. aged under 14) and the young persons (aged 14-18). Section 99 of the existing law limits the working hours of juveniles (aged above 14) to xx hours a day.

10 The Employment Act 12/2003 does not differentiate between a child (aged under 14) and a young person (aged 14-18). Under Act 12/2003, a child may not be employed for more than 6 hours a day with a rest break of no less than a total of one hour. The timing of the break period(s) must be set so that a child does not work for more than four continuous hours.

continuously for more than 3 hours and a young person for more than 4 hours without having a rest break. An Employer shall give a working children or young person in summer holidays at least a fully paid 2-week vacation[11]. An employer may not engage a child or a young person for additional working hours or on weekend.

IV. Work environment

11. Where an employer employs a child or a young person, the employer shall, regardless of the number of workers in the employer's establishment, comply with the recommendations made by the local Consultative Committee for Safety, Occupational Health, and Securing the Work Environment[12].

V. Requirements for employment

12. An employer may not employ a child or a young person without obtaining a work permit from the respective labor office[13].

13. For a work permit to be issued to a child or a young person, an application must be submitted to the local labor office. In case of a child, the application must be signed by the child's parent, school, and employer. In case of a young person, the application must be signed only by the young person and the employer and must be issued after consulting the Child Education Unit referred to under section 17 below[14].

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11 No mention is made in the existing law of vacation for working children and young persons in summer holidays.

12 Article 227 of the Employment Act 12/2003 entrusts the competent minister to create committees to study the work conditions and the causes of work accidents and occupational diseases and authorizes these committees to lay down the necessary precautions to prevent the occurrence of these accidents and diseases. A committee is formed in each province by decision of the Governor. The competent minister defines by ministerial decision the responsibilities and method of operation of these committees.

13 No mention is made in the existing law of the work permit requirement for the children aged 12-14.

14 No mention is made of these requirements in the existing law.

14. An application for a work permit must indicate the child's or young person's intended duties, hours of work, work place, a statement from the competent health department that the child or young person is fit for the intended occupation, and such other details as may be specified in the Executive Regulation.

VI. Duties of the concerned parties

15. Employers.

An employer shall-

1. employ children and young persons only in accordance with the provisions of this Bill and the Executive Regulation.
2. submit the child or young person whom the employer intends to employ for medical examination before he/she is employed to ensure his/her fitness for the intended occupation;
3. submit the child or young person in the employer's service for an annual medical examination during their employment;
4. ensure the child's or young person's safety and well being at all times when the child or young person is being employed;
5. keep records of the children and young persons in the employer's service, which indicate such details as specified in the Executive Regulation; and
6. except where the working children are employed in farming, display at a conspicuous place at the work place a list of the employed children and young persons indicating such details as specified in the Executive Regulation.

16. School Social Workers.

1. A school social worker shall examine the cases of the dropping-out children, investigate the reasons behind their drop-out, and seek to solve the associated problems. The Ministry of Education shall make sure that the number of school social workers is sufficient to carry out this duty.

2. Where a school social worker fails to solve these problems, the Ministry of Education shall report such cases to the Child Education Unit referred to under section (17) below.

3. The Ministry of Education shall in the beginning of every scholastic year report to both the Ministry of Social Affairs' Child Education Unit and the Ministry of Labor Force's Child Employment Unit lists of the dropping-out children and young persons in every province.

17. Child Education Unit.

1. This Act creates in the Ministry of Social Affairs a Child Education Unit.

2. The Child Education Unit shall provide monetary support for a child or a young person who, without that support and welfare, cannot attend school.

3. Schools' social workers shall report to the Child Education Unit cases where poor children need to attend special tutorials. The Child Education Unit shall, in cooperation with the local educational departments, arrange for special tutorials for those children.

4. If a child of school age does not regularly attend a school and the school's social worker fails to find a solution to his/her problem, the Ministry of Education shall within a reasonable time report that fact to the Child Education Unit.

5. The Child Education Unit shall, in consultation with the Ministry of Social Affairs' Associations and Non-Government Organizations Department, refer the case to an interested association or an NGO active in the province in which the child or young person lives.

6. The Child Education Unit shall follow-up with both the involved child or young person and the addressed association or NGO to ensure that the problem has been resolved. Where the involved association or NGO fails to solve the problem, the Child Education Unit shall decide

whether to refer the case to another association or NGO or to recommend to the Director of the Province's Social Affairs Directorate the necessary action.

7. The Child Education Unit shall report to the donors who contribute funds to the involved associations or NGOs the results of the cases referred to them.

8. The Child Education Unit shall conduct studies and research to identify the roots of the drop-out problem and the areas where that problem needs more attention. The Child Education Unit shall also examine the cases referred to it from the labor offices concerning the drop-outs who apply for work permits. The Child Education Unit may, depending on the results of its study, decide to refer such cases to interested civil society organizations, refer the child or young person to a training center or program, or approve directly the issuance of the work permit.

9. The Child Education Unit shall produce promotional materials to educate parents and children about the value of school.

10. Twenty-five (25%) of the fines imposed against violators of this Bill are allocated to fund the Child Education Unit's activities.

18. Working Children Unit.

1. The Working Children Unit located within the Ministry of Labor Force shall distribute promotional materials to the employers to educate them about this Bill.

2. The Working Children Unit shall study, follow-up, and evaluate the results of the implementation of this Bill. The Working Children Unit shall also identify the problems and loopholes encountered while implementing this Bill and shall recommend to the Ministry of Labor Force the necessary amendments, if required.

3. The Working Children Unit shall, in coordination with the interested civil society organizations, launch educational

campaigns about this Bill targeted at the employers of small-scale establishments.

4. The Working Children Unit also assumes responsibility for the drop-outs and assigns them to the related training centers created under Article 133 of the existing Act 12/2003[15].

19. The Media.

The state-owned media shall regularly launch annual media campaigns on the occasion of May Day and Child Day to educate the people about the harms of the employment of children and young persons in contravention of this Bill.

VII. Implementing agency and dispute settlement

20. Implementing Agency.

1. The Ministry of Labor Force's Inspectors, referred to under sections 234–238 of the Employment Act 12/2002 and in the relevant Ministerial Decisions[16], have the authority to ensure that the employers comply with the conditions governing the employment of children and young persons. To this end, the inspectors shall make inspections of the work places where children and young persons are employed. Where violations of this Bill are found, the penalties contained under sections 23-24 below are imposed on violators.

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15 Article 133 creates a Training and Qualification Fund of public corporate personality whose function is to fund the establishment and development of training centers and programs with the purpose of meeting the needs of the local private work market. Article 134 states the funding sources of the Fund and Articles 134 and 135 provide for the terms and conditions governing the Fund's activities.

16 Sections 234-238 of the Employment Act 12/2002 grants the Ministry's inspectors the status of law enforcement officers provide for the rules and procedures of their work. Employers are bound to give to the inspectors an access to their workplaces and must appear before them at if they are so requested. The competent authorities are called upon to assist the officers empowered to implement the provisions of Act 12/2002 while exercising the duties of their jobs.

2. The local labor offices of the Ministry of Labor Force shall report to the Ministry's Inspection Department the names of the children and young persons for whom work permits were issued. The inspectors shall also gather evidence from the lists of the dropping-out children reported from the Ministry of Education to the Ministry of Labor Force's Working Children Unit to ensure that they are not employed without obtaining work permits.

21. Dispute settlement

1. Disputes arising between the employers and working children or young persons are settled by the Ministry of Labor Force's local offices. The Labor Office investigates complaints filed by the working children and young persons or their parents and has the authority to settle such disputes. The Labor Office first seeks to reach settlement by amicable means. Failing this, the office submits the dispute to a mediating committee made up of a representative of the trade union, a representative of the employer, and the labor office's officer in charge of the case. The committee is formed by decision of the respective labor office's director.
2. Where the local labor office fails to reach settlement by amicable means, the dispute is referred to the competent labor tribunal.

VIII. Incentives and Penalties

22. An employer in whose establishment a child or a young person successfully completes the preparatory or the high-school education phase has an edge over other employers in contracting with government authority provided that the employer meets the required conditions for that employment.

23. Where a child or a young person is employed in contravention of the provisions of this Bill, the employer or the person to whose act or default the contravention is attributed, is liable on summary conviction to a fine of a maximum of three hundred and a minimum of two hundred pounds. The amount of this fine is increased by 10% every year starting from the year 2005 to

cover the inflation cost. Multiple fines are imposed if the contravention involves more than one child or young person. Where harms are caused to a child or a young person, the employer is liable, in addition to the fine, to damages in civil liability.

24. In case of recidivism, the fine is doubled. If the employer continues to violate the provisions of this Bill, the fine is tripled.

25. Twenty-five percent (25%) of the fines imposed by this Bill against the employers who fail to comply with its provisions are allocated to fund the production and distribution of the promotional materials about the harms of the employment of the children.

26. Fifty (75%) of the funds of the fines imposed for the enforcement of this Bill go directly to the State's Treasury.

26. An employer who prevents or deprives a child from receiving the basic education is sentenced to a maximum of one month in jail or a fine of no less than 200 pounds and no more than 500 pounds[17].

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17 This section is identical to section (54) of the Child Act 1996.